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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,271	10/23/2001	Frits Jacobus Fallaux	3833.6US	8381

24247 7590 02/23/2005

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the notice of allowability has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 20, 2004 has been entered.

The claim amendment filed together with the RCE introduces a claimed invention that is distinct from that of the originally filed claimed invention. The originally filed claimed invention clearly is drawn to a method of employing an adenovirus packaging cell that does not comprise an adenovirus pIX protein. However, all pending claims (represented by base claims 1, and 40) are now directed to a claimed invention, drawn to a process of employing a nucleic acid sequence encoding an adenovirus pIX gene product in the making of a recombinant adenovirus vector. The two are directed to distinct materials and distinct method steps. A prior art that teaches an adenovirus packaging cells that does not harbor an adenovirus pIX gene product is distinct from the teaching of employing an adenovirus pIX gene in an adenovirus packaging cell.

Since all pending claims are no longer directed to the originally filed claimed invention, amendment is non-responsive (MPEP § 821.03). Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to

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avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Dave Nguyen* whose telephone number is **571-272-0731**.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ram Shukla*, may be reached at **571-272-0735**.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Central Fax number, which is **571-273-8300**.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

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Dave Nguyen  
Primary Examiner  
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**DAVE TRONG NGUYEN  
PRIMARY EXAMINER**